

Election Procedures Review
Of
Ferry County
State of Washington
2006 Primary Election



Conducted by the
Office of the Secretary of State
Election Certification and Training Program



Introduction

The Washington State Legislature enacted legislation in 1992 mandating that the Office of the Secretary of State review county election procedures and practices. The Election Certification and Training Program was established within the Elections Division of the Office of the Secretary of State to conduct reviews and to provide for the certification of election administrators. In 2005, the Legislature expanded the Election Certification and Training Program to require that each County Auditor's Office be reviewed at least once every three years. They also added a requirement for the Program to conduct a follow-up visit to verify the county has taken the steps they listed to correct the problems noted in the report.

The election review process is governed by RCW 29A.04.510 through 29A.04.590 and Chapter 434-260 of the Washington Administrative Code. Reviews are conducted at regular intervals in conjunction with a county primary, special or general election, at the direction of the Secretary of State.

Pursuant to RCW 29A.04.570(1)(b), the Election Certification and Training Program conducted an election review in Ferry County during the 2006 General Election cycle. Samantha Duncan, Elections Program Specialist, represented the Election Certification and Training Program during the review. Clydene Bolinger, the Ferry County Auditor, Dianna Galvan, the Elections Supervisor, and other members of the staff participated on behalf of the Ferry County Auditor's Office.

Ferry County allowed the reviewer to thoroughly review and examine all aspects of the election processes. The county provided documentation and materials during the review which greatly contributed to a successful examination process.

Both the reviewer and the Ferry County Auditor's Office approached the review in a spirit of cooperation. The State commends the Ferry County Auditor's Office for its efforts in making the review process a positive and useful experience.

Contents of this report are based on observations of election practices and procedures and on interviews with county election personnel. The reviewer obtained information based on the actual observation of a particular procedure, verbal explanation, or written procedures. In all cases, the predominant concern is whether or not the county's actions constitute compliance with the intent of statutes and rules.

The purpose of this review report is to provide the Ferry County Auditor's Office with a useful evaluation of its election procedures and policies and to encourage procedural consistency in the administration of elections throughout the state. This review report includes a series of recommendations and/or suggestions that are intended to assist Ferry County in improving and enhancing its election processes.

The reviewer is statutorily prohibited from making any evaluation, finding, or recommendation regarding the validity of any primary or election or of any canvass of the election returns. Consequently, this review report should not be interpreted as affecting, in any way, the validity of the outcome of any election or of any canvass of election returns.

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Overview

Ferry County has nearly 4,000 registered voters, distributed over 36 precincts. The Auditor's Office employs only one full time staff for the Elections Department, and all election tasks are performed at the County Courthouse. The courthouse office has adequate space for the current administration of elections. However, if more employees are hired or the workload increases, acquiring more space will be essential.

Since 2004, there have been many changes in federal and state election law. In Washington State alone, over 350 changes to law and rule have been enacted. As a result of those changes, the Ferry County Auditor's Office has had to adapt rapidly to new requirements. Ferry County purchased a digital scan tabulation system in 2005. The courthouse was updated to become handicapped accessible. Many office procedures had to be written or revised to accommodate the new equipment and the new laws. In light of these numerous changes, the Ferry County Auditor's Office has done a remarkable job administering accurate and fair elections.

The Auditor's staff was pleasant, cooperative, and candid. It is evident that staff members take pride in accomplishing their tasks and serving the voters. Morale in the office is exceptional. This is a testament to both the quality of the employees, and the leadership of the Auditor.

While this report lists areas in which the Ferry County Auditor's Office must continue to improve, the Auditor and her staff are commended for their accomplishments. For instance, ballot reconciliation was performed efficiently and accurately. Staff members resolving ballots on the tabulation system were extremely diligent in following state mandated guidelines for voter intent. Overall, the Ferry County Elections Department does excellent work.

Recommendations

The following recommendations indicate areas where the county is out of compliance with the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), the Washington State Constitution, or Federal election law. The reviewer provides a description of the county's procedure, a citation of the applicable law, and a recommendation based on the citation.

Questionnaire to Cities, Towns, and Districts

The Ferry County Auditor's Office sends a questionnaire to cities, towns and districts each odd year to collect information regarding offices up for election that year.

WAC 434-215-005 states, "Prior to April 1 of each year, the county auditor shall send a questionnaire to the administrative authority of each local jurisdiction for which the auditor is the candidate filing officer subject to the provisions of RCW 29A.04.320 and 29A.04.330."

Recommendation: The questionnaire must be sent every year, not only the odd years. Along with the new Primary date, many other dates and deadlines will change in 2007. The deadline for sending the questionnaire will change from April 1 to March 1 of each year.

Special Absentee Ballot Request Forms

The Ferry County Elections Department has Special Absentee Ballot request forms available for voters who believe they will be unable to vote and return a regular absentee ballot within the normal timeframe. These forms correctly provide for the voter to print his or her name and attest to the need for a special ballot with a signature and date. Space is also provided to document the correct precinct. Other required items are not on the form.

WAC 434-250-030 states:

(2) "As authorized by RCW 29A.40.020 and 29A.40.030, requests for a single absentee ballot may be made in person, by telephone, electronically, or in writing, and may be made by a family member. Each county auditor must provide applications for requests made in writing. The form must include, but not be limited to, the following:

(a) A space for the voter to print his or her name and the address at which he or she is registered to vote;

(b) The address to which the ballot is to be mailed;

(c) A space for the voter to indicate for which election or elections the application is made; and

(d) A space for the voter to sign and date the application.

(3) As authorized by RCW 29A.40.050, requests for a special absentee ballot must be made in writing and each county auditor must provide the applications. In addition to the requirements for a single absentee ballot, as provided in subsection (2) of this section, the form must include:

(a) A space for an out-of-state, overseas, or service voter not registered to vote in Washington to indicate his or her last residential address in Washington;

(b) A checkbox requesting that a single absentee ballot be forwarded as soon as possible; and

(c) The declaration required in WAC 434-250-050."

Recommendation: The special absentee ballot request forms must include all of the required items.

Health Care Facility Ballot Request Forms

The Ferry County Auditor's Office does not currently have health care facility ballot request forms.

WAC 434-250-030(4) states, "As authorized by RCW 29A.40.080, requests for an absentee ballot may be made by a resident of a health care facility, as defined by RCW 70.37.020(3). Each county shall provide an application form for such a registered voter to apply for a single absentee ballot by messenger on election day."

Recommendation: The Ferry County Elections Department must create a health care facility ballot request form and have it available for use if needed. Even though Ferry County is a vote by mail county, instances can still occur in which a voter would need this form. One example would be an inactive voter who did not receive a ballot, and is in the hospital on election day.

Verification Notices

When required information is missing on a voter registration application, a verification notice is mailed to the voter, along with a letter specifying the missing information. The letter states that the notice must be returned with the requested information within 30 days or the applicant will not be registered to vote.

RCW 29A.08.110 states, "This verification notice shall require the applicant to provide the missing information. If the verification notice is not returned by the applicant within forty-five days or is returned as undeliverable, the name of the applicant shall not be placed on the official list of registered voters."

Recommendation: Any information accompanying the verification notice, whether it is on a letter mailed along with the notice or on the notice itself, should state the deadline as 45 days.

Notice of Closing Registration

The Ferry County Auditor's Office published a Notice of Closing of Registration as required. The date listed as the last day to register was October 6, 2006. The notice also included information that had not been updated from the notice of the primary, and contained incorrect dates for the General Election.

RCW 29A.08.140 states, "The registration files of all precincts shall be closed against transfers for thirty days immediately preceding every primary, special election, and general election to be held in such precincts."

Recommendation: The last day to register should have been published as October 7th. It is important to list the correct date because voters can still mail a valid registration form if it is postmarked on the last day to register. The notice should be proofread extensively to make sure all the information is correct and pertains to the current election.

Notice of Election

The Ferry County Elections Department published a legal notice of election that included the date of the election, instructions on where and when to return ballots, and the fact that Ferry is an all vote by mail county. The notice listed each office, the names, addresses and party affiliations of the candidates, and the ballot titles for the ballot measures.

The notice did not list the address or business hours of the Auditor's Office, that it is accessible to the disabled, or the availability of disability access voting equipment. There was also no mention of the amount of postage needed to mail the ballots, or how to obtain a replacement ballot.

RCW 29A.52.351 states, "The legal notice must contain...the hours during which the polls will be open, and the polling places for each precinct, giving the address of each polling place."

RCW 29A.16.170 states, "Each county auditor shall include a notice of the accessibility of polling places in the notice of election...."

WAC 434-250-310(3) states, "In addition to the information required in the notice of election published pursuant to RCW 29A.52.351, a county auditor conducting an election by mail, whether for a single jurisdiction or the entire county, must also state: ...

(c) The location where voters may obtain replacement ballots;

(d) The amount of postage required on the return envelope;

(e) The dates, times and locations of designated deposit sites and sites for voting devices that are accessible to the visually impaired."

Recommendation: Auditor's Offices are now defined by WAC as polling places. Therefore, included in the notice of election must be the address of the Auditor's Office, the hours it will be open on Election Day, and whether the location is handicapped accessible. The notice must also contain the amount of postage required to return the ballot by mail, instructions on how and where a voter can obtain a replacement ballot, and the dates, times, and locations of deposit sites and Disability Access Units.

Notice of Canvassing Board Meetings

Ferry County published a notice of canvassing that stated the Canvassing Board would meet from October 23rd through November 28th, as necessitated. However, the Canvassing Board itself did not meet until Election Day. On the dates given in the notice, members of the Auditor's staff were performing duties delegated to them by the Canvassing Board. If a member of the public wished to attend the Canvassing Board meeting, it was not possible to tell from the notice when the meeting would occur.

RCW 29A.60.140(5) states, "Meetings of the county canvassing board are public meetings under chapter 42.30 RCW."

WAC 434-262-025 states, "The auditor shall publish notice of the meetings of the canvassing board. Such notice or notices shall be in substantially the following form:

OPEN PUBLIC MEETING NOTICE

The canvassing board of (Name of County) County, pursuant to chapter 29A.60 RCW, will hold

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public meetings at (Time of Meetings), (Dates), at (Locations), to (Purpose of Meetings). These meetings of the canvassing board are open, public meetings, and shall be continued until the activity for which the meetings are held has been completed.”

Recommendation: The notice of the Canvassing Board meetings should include the specific dates and times that the actual Canvassing Board is going to meet. Dates that ballot processing are to occur may be included in the notice, but it should be clarified that those duties are performed by staff delegated by the Canvassing Board, and are not actual Canvassing Board meetings.

Confirmation Notices

When a voter is placed on inactive status, Ferry County Elections Department sends the voter a confirmation notice along with a letter explaining the reason for the notice. The notice allows the voter to fill out the necessary information and return it to the Auditor. The accompanying letter states that the voter has thirty days to return the notice, and that if it is not returned, verification of the voters address may be required before the voter is allowed to vote. The voter is informed that if the card is not returned and the voter does not vote “by the year 2009 General Election,” the registration will be canceled.

RCW 29A.08.635 states, “Confirmation notices must be on a form prescribed by, or approved by, the secretary of state and must request that the voter confirm that he or she continues to reside at the address of record and desires to continue to use that address for voting purposes. The notice must inform the voter that if the voter does not respond to the notice and does not vote in either of the next two federal elections, his or her voter registration will be canceled.”

Recommendation: The letters accompanying the notice must be revised. No deadline should be given for the voter to return the notice. The section of the letter warning the voter should be reworded to state that the registration will be canceled if the voter fails to respond or vote “in either of the next two federal elections.” This wording does not have to be specifically calculated to each voter, and there is therefore no chance of mistakenly stating the wrong election.

Requiring confirmation of the inactive voter’s address is not required by law as a prerequisite to voting. That statement must be removed from the notice.

Inactive Voters

The Ferry County Elections Department correctly places voters on inactive status when a ballot or other required notice is returned as undeliverable. The Office also sends inactive voters a notice before each election explaining why they will not be receiving a ballot, and providing a phone number to call to request a ballot.

RCW 29A.48.010 states, “The auditor shall send each inactive voter either a ballot or an application to receive a ballot at least eighteen days before a primary, general election, or special election.”

Recommendation: The letter that is mailed to inactive voters must be converted into an application to request a ballot that the voter may mail back to the Auditor. The phone number may remain on the application, to provide voters the additional option of requesting a ballot by phone.

Instructions to Voters

The Ferry County Auditor's Office included with the ballots written instructions on how to mark, correct, and properly return the ballot. The instructions did not tell the voter how to obtain a replacement ballot.

WAC 434-250-040(1) requires, *"In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning an absentee ballot must also include: ...*

(f) How to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

Recommendation: The instructions must also include information on how to obtain a replacement ballot.

Forwarding Mail Ballots

The outer mailing envelope used by the Ferry County Elections Department for mail ballots indicates that the ballot contained within the envelope is forwardable. However, instructions to voters accompanying the ballot do not contain the required statement for forwarding ballots.

RCW 29A.40.091: *"If the county auditor chooses to forward absentee ballots, he or she must include with the ballot a clear explanation of the qualifications necessary to vote in that election and must also advise a voter with questions about his or her eligibility to contact the county auditor."*

WAC 434-250-070: *"If the county auditor chooses to forward absentee ballots, as authorized by RCW 29A.40.091, the auditor must include with the ballot an explanation that is substantially similar to the following:*

For each jurisdiction listed on the ballot, you must reside in the jurisdiction in order to vote for that office or issue. If you have any questions about your eligibility to vote in this election, please contact your county auditor."

Recommendation: If the Ferry County Elections Department continues to forward absentee ballots, the statement regarding voter eligibility must be included with the ballot materials.

Auditor's Office as a Polling Place

The Ferry County Auditor's Office was open on Election Day from 7am to 8pm serving as a polling place. The office made available a Disability Access Unit to be used as needed. Sample ballots, voter registration forms, cancellation cards, and provisional ballots were available. A HAVA information poster was displayed; voting and registration instructions were not.

RCW 29A.44.140(1) states, *"Each county auditor shall provide voting and registration instructions, printed in large type, to be conspicuously displayed at each polling place and permanent registration facility."*

WAC 434-253-025 states, *"The following items must be posted or displayed at each polling place while it is open: ...*

(3) Voting instructions printed in at least 16 point bold type...."

Recommendation: Voting and registration information should be posted in at least 16 point bold type on Election Day at the Auditor's Office.

Ballot Deposit Sites - Security and Location

The Ferry County Elections Department provided two deposit sites for voters who wished to drop off their ballots instead of mail them. One secure box was located in the Auditor's Office and was locked, without numbered seals or logs. A second secure box was located in the parking lot behind the Courthouse under camera surveillance at all times. Ballots were removed from the boxes only in the presence of two employees, and kept in secure storage when not being processed.

WAC 434-250-100(3) states, "Ballot boxes must be locked and sealed at all times, with seal logs that document each time the box is opened, by whom, and the number of ballots removed."

WAC 434-250-320 states, "A county auditor conducting a county-wide election entirely by mail must provide at least two sites for the deposit of ballots. One of the deposit sites may be at the county auditor's office. All other deposit sites must be at geographical locations that are different from the county auditor's office. All deposit sites must meet the requirements of WAC 434-250-100."

Recommendation: The Elections Department must ensure that both ballot boxes employ the use of numbered seals and logs to document access to the ballots. Also, a deposit site must be made available at a geographical location other than the county courthouse. The intent of providing drop off boxes at different geographical locations is to allow voters to return their ballots conveniently without using the postal system. The courthouse parking lot does not fulfill this purpose. The Elections Department should provide at least one other drop box outside Republic.

Ballot Duplication Logs

The Ferry County Auditor's Office maintained a log of the extra ballots for each precinct printed for purposes of ballot duplication. Ballots were duplicated in teams of two people. When a ballot needed to be duplicated, the next number on the list for the applicable precinct was crossed off and that became the control number for the ballot. The ballot was duplicated and both ballots were marked with the control number and initialed. The log itself was not initialed.

RCW 29A.60.125 states, "(2) A log must be kept of the ballots duplicated, which must at least include:

- (a) The control number of each original ballot and the corresponding duplicate ballot;*
- (b) The initials of at least two people who participated in the duplication of each ballot;*
- and*
- (c) The total number of ballots duplicated."*

Recommendation: The Ferry County Auditor's Office must use a duplication log that includes all of the required information. This can be accomplished by having the duplication team initial the control number on the log for each ballot duplicated.

Ballot Resolution Logs

Ferry County uses a digital scan vote tabulation system. The system creates a digital log of the ballots resolved in preparation for tally. The resolution was performed in teams of two. The digital duplication log was not printed and signed by the team.

WAC 434-261-102 states, “In counties tabulating ballots on a digital scan vote tallying system, two staff designated by the auditor's office must resolve ballots identified as requiring resolution. A log of the resolutions must be printed and signed by the two staff.”

Recommendation: The resolution log must be printed and signed to document who resolved which ballots. This could be accomplished by having only one team of two resolve ballots on any given day and printing the log once the process is complete, or printing the log when the team of two changes.

Disability Plan

The Ferry County Auditor's Office created a Disability Advisory Committee and developed a plan to improve accessibility for voters with disabilities. The plan contains recommendations on all of the required items. Plans for community outreach and education are excellent and include a voter education program, working with local media, and producing flyers and a video to advertise the options available to the disabled community.

There are no disabled persons, or experts on providing accommodations for disabled persons, on the committee.

RCW 29A.46.260(2) states, “Each county shall establish and maintain an advisory committee that includes persons with diverse disabilities and persons with expertise in providing accommodations for persons with disabilities.”

Recommendation: The Ferry County Auditor's Office must find people to join the committee who are disabled and who are experts in accommodations for the disabled.

The Auditor's Office has a solid start on the advisory plan. The staff should continue to follow through on the plans that have already been created. When it is time for the annual update of the plan, the committee should build upon what they have learned this year and continue to improve the accessibility of elections for disabled voters.

Suggestions

The following are suggestions for increasing efficiency and improving operations within the County Auditor's Office. Although these suggestions do not address issues involving compliance with state laws or administrative rules, the reviewer identified the tasks as areas of election administration in which the County Auditor might improve the efficiency and operation of the office.

Provisional Ballot Security Envelopes

The Ferry County Elections Department has security envelopes for provisional ballots that are outdated and contain incorrect information. There is no hole in the security envelope that reveals whether there is a ballot inside.

Suggestion: The Ferry County Elections Department should not use security envelopes that have incorrect information on them. A simple solution would be to use the same security envelopes for both mail and provisional ballots. There is no requirement that special instructions be printed on the provisional ballot security envelopes, and the regular security envelopes already have holes.

Written Procedures

Ferry County provided the reviewer with written procedures on many aspects of election administration. It is evident that much effort went into the creation of these procedures. However, with the number of changes in election law in the last few years, some of the written procedures are no longer current.

Suggestion: The Ferry County Auditor's Office should continue to work on updating its written elections procedures.

County's Response to Draft Review Report

The Election Certification and Training Program issued a Draft Review Report to the Ferry County Canvassing Board in March 2007. In accordance with WAC 434-260-145, we provided Ferry County 10 days to respond, in writing, to recommendations listed in the draft report.

The Ferry County Canvassing Board provided the following response to the Draft Review Report. The signed original of their response is on file in the Office of the Secretary of State.

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March 23, 2007

Attn: Samantha Duncan
Secretary of State's Office
Election Certification and Training Program

RE: Ferry County Election Review

I have thoroughly read and examined the recommendations of the review report dated March 2007. I appreciate that the findings and recommendations are accurate and useful.

We have already started updating our notices and procedures. We should have them all corrected by the next Election.

Sincerely,

Dianna L. Galvan
Ferry County Auditor

Conclusion

The Ferry County Auditor's Office is already doing a fine job running elections. The areas listed in this report will help keep procedures in compliance with statute and rule. Many require only minor changes in forms, notices, or procedure.

Ferry County has no problems accounting for all of its ballots. However, following the recommendations on ballot deposit sites, duplication logs, and resolution logs, will provide better documentation of their accountability.

The Disability Advisory Committee that Ferry County assembled adopted an initial plan. This plan was a good start, and is especially strong in the area of voter outreach and education. The committee membership needs to be expanded to include disabled persons and experts in accommodating the disabled. If the office follows through on the plan, and includes the recommended members, Ferry County will have an excellent foundation for accommodating its disabled voters.

With any county conducting elections, having up to date written procedures can be a lifesaver. Written procedures document compliance with law, and can assist in training new staff as necessary. It is extremely difficult to find enough time to maintain written procedures, especially with so many election laws changing as rapidly as they have in the past few years. That being said, it is nevertheless highly suggested that the Ferry County Auditor's Office do their best to update the many written procedures that are already in existence.

During this review, the Ferry County Auditor and entire staff were professional and cooperative. The reviewer was able to either visually observe, read in written procedure, or discuss verbally with the staff the many aspects of election administration. Following the recommendations and suggestions in this report will further improve the processes of the Ferry County Auditor's Office.

Review Report Prepared by:

Samantha Duncan
Elections Program Specialist
Office of the Secretary of State



Date: March 27, 2007

Signature